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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 1672nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 July 1998, at 3 p.m.

Chairperson: Ms. CHANET

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The meeting was called to order at 3.15 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Draft list of issues to be taken up in connection with the third periodic report of the United Republic of Tanzania (CCPR/C/63/Q/URT/1) (continued)

1. The CHAIRPERSON invited the Committee to resume its consideration of the draft list of issues relating to the third periodic report of the United Republic of Tanzania, starting with paragraph 8.

Paragraph 8: Self-determination, freedom of assembly and participation in public affairs (arts. 1, 21 and 25)

2. Mr. BHAGWATI proposed that the word "self-determination" in the title should be deleted.

3. Mr. SCHEININ said that that word should be retained because there was a link between self-determination and the criteria required for the registration of a political party, as referred to in paragraph 8 (b).

4. The CHAIRPERSON said that the question contained in paragraph 8 (b) related to the rights provided for in article 25 of the Covenant, but she did not see any direct link with self-determination, unless it was made clear what the Committee meant by that question.

5. Mrs. EVATT said that there was a link between the right to self-determination and the rights provided for in article 25, but she agreed that that was not very clear from the question as formulated. Article 22 should also be referred to in the title.

6. Lord COLVILLE (Country Rapporteur) said that he was in favour of deleting the word "self-determination" and the reference to article 1 in the title. In his opinion, concerns about the right to self-determination could be referred to orally by the members of the Committee.

7. Mr. SHEININ said that, in paragraph 7 of the report (CCPR/C/83/Add.2) under the heading of article 1 of the Covenant, the State party referred to the right of peoples to self-determination and to the registration of political parties, and that enabled the Committee to establish a link between the two. The reference to article 1 should therefore not be deleted.

8. Lord COLVILLE (Country Rapporteur) said that there was a possibility of referring to the question of self-determination in connection with articles 21, 22 and 25, if the Committee so wished, and he intended to raise the question orally. The reference to article 1 could therefore be deleted.

9. Mrs. EVATT said that she supported Lord Colville's comments.

10. Mr. ZAKHIA said that self-determination came under international law, whereas the question of the registration of political parties came under a country's internal law.

11. The CHAIRPERSON said she took it that the Committee wished to delete the word "self-determination" in the title of paragraph 8 and to refer to articles 21, 22 and 25 in brackets.

12. It was so decided.

13. Paragraph 8, as amended, was adopted.

Paragraphs 9 to 15

14. Paragraphs 9 to 15 were adopted.

Paragraph 16

15. Mr. POCAR said that he was puzzled about the wording of paragraph 16 (a) which asked the same questions about official and non-governmental human rights organizations, including the extent of their jurisdiction.

16. Mrs. EVATT said that the reference to "non-governmental organizations" in paragraph 16 (a) should be deleted and that another question should be added between subparagraphs (a) and (b) relating exclusively to non-governmental organizations and using the wording of the first question in subparagraph (a).

17. Mr. YALDEN said he supported the proposal that the reference to non-governmental organizations in the first sentence of subparagraph (a) should be deleted.

18. Lord COLVILLE (Country Rapporteur) proposed that paragraph 16 should be amended in the following way: subparagraph (a) would be retained, except that the words "or non-governmental" would be deleted; subparagraph (b) would ask what non-governmental organizations existed to monitor, publicize and promote human rights in Tanzania; and subparagraph (c) would reproduce the text of the existing subparagraph (b).

19. Mr. KLEIN said that he supported that proposal, but would like the first question to relate to "official organs or bodies" rather than to "official organizations".

20. The CHAIRPERSON said that, in the first question, the Committee would ask whether there were official organs or bodies to monitor, publicize and promote human rights in Tanzania and what those organs or bodies were, what laws or measures were in place to ensure their independence and what the extent of their jurisdiction was. The second question would ask whether there were non-governmental organizations to monitor, publicize and promote human rights in Tanzania and what laws and measures had been adopted to enable them to operate. The third question would relate both to official organs and bodies and to non-governmental organizations and would ask whether there were reports and information from those organs and bodies and organizations which could be made available to the public and to the Committee.

21. Lord COLVILLE (Country Rapporteur), replying to a question by Mr. BUERGENTHAL, said it was true that the question of the independence of non-governmental organizations must not be raised in paragraph 16, but it could be included in paragraph 12, which related to the rights provided for in article 22 of the Covenant on freedom of association.

22. Mr. ZAKHIA, said it was also important to know whether non-governmental human rights organizations were entitled to institute proceedings in the event of human rights violations.

23. The CHAIRPERSON said that there seemed to be a consensus on paragraph 16, which would consist of subparagraph (a) on the existence of official organs and bodies for the promotion of human rights, on laws designed to ensure their independence and on their jurisdiction; subparagraph (b) on whether non-governmental organizations existed to monitor, publicize and promote human rights; and subparagraph (c) to ask what reports by official bodies and non-governmental organizations were available to the public and to the Committee. The text of paragraph 16 would be amended accordingly.

Paragraph 17: Reporting

24. The CHAIRPERSON said that the title was new.

25. Lord COLVILLE (Country Rapporteur) said that the title was not absolutely necessary and could be deleted, but he had found that the rights provided for by the articles referred to were particularly important in the context of the country under consideration and that the report said nothing about them.

26. The CHAIRPERSON said that, if the title was deleted, the Committee might add comments in the paragraphs on the articles of the Covenant on which the report did not contain any information, such as paragraph 12 in relation to article 22 and paragraph 15 in relation to article 27.

27. Mr. LALLAH, supported by Mr. KRETZMER, said that, if paragraph 17 was deleted, the State party, which had already been given the initial version of the list of issues during the consideration of its third report, might conclude that the Committee was no longer concerned about the lack of information on the enjoyment of the rights provided for in articles 21, 23, 26 and 27. He would not object if the questions on those articles were asked in the relevant paragraphs.

28. Lord COLVILLE (Country Rapporteur) said that the deletion of paragraph 17 would be unnoticed, since the rights provided for in article 12 were covered by the questions asked in paragraph 4, those provided for in article 21 were dealt with in paragraph 8, those provided for in articles 23 and 26 in paragraph 2 and those provided for in article 27 in paragraph 15.

29. The draft list of issues to be taken up in connection with the third periodic report of the United Republic of Tanzania (CCPR/C/63/Q/URT/1), as amended, was adopted.

30. The CHAIRPERSON invited the members of the Committee to consider the draft list of issues to be taken up in connection with the consideration of the second periodic report of Algeria (CCPR/C/63/Q/ALG/1), the text of which was available in English only.

Paragraph 1: Right to life (art. 6)

31. The CHAIRPERSON, referring to a suggestion by Mr. KRETZMER, said that the question asked in subparagraph (c) would be stated more clearly and would refer, in particular, to three massacres which had been committed in 1997 in Sidi Raïs (28 August), Sidi Youssef (5 September) and Ben Talha (22 and 23 September). A sentence would be added to that subparagraph in which the Committee would ask when the Algerian authorities had learned of those three incidents and what measures they had taken to protect civilians.

Paragraph 2

32. The CHAIRPERSON said that paragraph 2 should have a title, which might be the same as that of paragraph 1.

33. Following an exchange of views in which Mr. LALLAH, Mr. KLEIN and Mr. PRADO VALLEJO took part, the CHAIRPERSON suggested that Mr. Klein's proposal for the amendment of the first two sentences of the paragraph should be adopted so that the Government would be asked what measures it had taken to ensure the protection of persons who seemed to be targeted by extremist Islamic groups only because they were human rights defenders, Muslim clerics or Christian ministers.

34. It was so decided.

35. Mrs. MEDINA QUIROGA proposed that the last two questions in paragraph 2 relating to the protection of civilians should be included in paragraph 1 (c).

36. It was so decided.

Paragraph 3: Disappearances (art. 6)

37. The CHAIRPERSON said that the title should be amended to read: "Right to life and disappearances (art. 6)".

38. Replying to a request by Mr. Scheinin, she said that a new paragraph on the right to life and the death penalty would be added in which the Committee would request the Algerian delegation to provide explanations on the 200 or so death sentences which had been handed down.

Paragraph 5: Right to life and freedom of expression (arts. 6 and 19)

39. After an exchange of views in which Mrs. MEDINA QUIROGA, Mr. KLEIN and Mr. PRADO VALLEJO took part, the CHAIRPERSON said that paragraph 5 would be recast. The first two sentences on the targets of armed groups would become a new subparagraph of paragraph 2. The rest of paragraph 5, which dealt specifically with freedom of expression, would become a separate subparagraph on the implementation of article 19 of the Covenant that would be included in

paragraph 11. The words "national unity" would be placed in quotation marks to show clearly that they were the words used in the report (CCPR/C/101/Add.1) and that they gave rise to questions in connection with the implementation of the Covenant, since national unity was not a possible ground for derogation within the meaning of article 4.

Paragraph 6: State of emergency (art. 4)

40. Mr. POCAR proposed that the second sentence should be amended to ask why the Secretary-General of the United Nations had not been notified of the extension of the state of emergency.

41. The proposal was adopted.

Paragraph 7: Right to liberty (arts. 4 and 9)

42. The CHAIRPERSON said that the title would be amended to use the wording of articles 4 and 9 of the Covenant.

43. Following an exchange of views in which Mrs. MEDINA QUIROGA, Mr. KLEIN, Mr. YALDEN, Mr. SCHEININ and Mrs. EVATT took part, the CHAIRPERSON said that the question on trials in absentia would be deleted and that explanations with regard to that type of trial would be requested in connection with the implementation of article 14 of the Covenant. The rest of paragraph 7 would be kept unchanged.

Paragraph 8: Right to liberty and security of person (art. 9)

44. After an exchange of views in which Mr. PRADO VALLEJO, Mr. ZAKHIA, Lord COLVILLE, Mrs. MEDINA QUIROGA and Mr. EL SHAFEI took part, the CHAIRPERSON said that the following amendments would be made: the two questions on restrictions on the excessive use of force by "legitimate defence groups" and the security and police forces and penalties in the event of excesses would be deleted in order not to give the impression that the Committee was putting the "legitimate defence groups" on the same footing as the regular Algerian Government forces. A suitable text would also be drafted to get the Algerian delegation to explain the nature of the "legitimate defence groups", their relations with the Government and its control over their activities.

Paragraph 9: Right to liberty and security; and paragraph 10: Freedom from torture

45. The CHAIRPERSON said that, on the basis of a proposal by Mr. Klein, only the question on the rules governing incommunicado detention would be retained in the question relating to the right to liberty and security. The question on safeguards to prevent the ill-treatment of detainees would be moved to the paragraph on freedom from torture.

46. Following a discussion in which Mr. KLEIN, Mr. PRADO VALLEJO, Mrs. EVATT and Mrs. MEDINA QUIROGA took part, the CHAIRPERSON said that the order of all the questions in the paragraph on torture would be reviewed and that the sentence which asked whether torture was defined in Algerian law would be

deleted because it was clear from the report that torture, as defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, was a criminal offence in Algeria. All the questions on violence against women would come immediately after the paragraph on freedom from torture. However, the questions on the situation of women in Algeria now contained in paragraph 12, which referred only to article 3 on equality, had to be strengthened and expanded. On the basis of a proposal by Mr. Zakhia, she therefore suggested that the question on discrimination against women should consist of three parts: (1) violence against women; (2) restrictions on women in public life; (3) inequality under the law (inheritance, etc.).

Paragraph 11: Freedom of conscience and religion (arts. 18 and 25)

47. The CHAIRPERSON, referring to a proposal by Mr. KLEIN, said that the general question whether freedom of conscience and religion included freedom not to belong to a religious group or a recognized church would be dealt with in a separate paragraph on article 18 and that all the other questions in paragraph 11 would be kept together because they referred to the right to freedom of religion in relation to freedom of political parties, i.e. in relation to article 25.

48. She drew the Committee's attention to the fact that article 19, which was fundamental in Algeria's case because it provided for freedom of expression and therefore related, inter alia, to freedom of the press, would now be covered only by a question on publications. The treatment of that article would therefore have to be padded out by oral questions.

Paragraph 14: Independence of the judiciary

49. The CHAIRPERSON said that the paragraph on article 14 of the Covenant would have to be completely changed and that a question on special courts would have to be added.

50. Mr. KLEIN said that paragraph 14 on the independence of the judiciary had to be revised because, as it stood, it made no distinction between the status of judges, on the one hand, and the application of judicial decisions, on the other. He did not think that the Committee could ask whether decisions of special courts could be appealed to a court of second instance "before being brought to the Supreme Court", since article 14 required only the review of a decision by a higher court.

51. The CHAIRPERSON said that she agreed with Mr. Klein and that the question would be asked orally, not in writing.

52. Mrs. MEDINA QUIROGA said she was not sure whether the question on the information that a number of judges had been approached by the Minister of Justice with a view to preventing the release of certain defendants really belonged in the written list of issues, even though it did relate to the independence of the judiciary.

53. The CHAIRPERSON said that that important question would be raised orally and that the paragraph on the independence of the judiciary would be rearranged so that all the questions on the status of judges (irremovability,

term of office, etc.) were grouped together at the beginning; they would be followed by the questions on the new legislation relating to the judiciary and the powers of the Higher Council of Justice and on the stage reached in the National Assembly's consideration of the draft legislation. The Committee would also ask whether the special courts were still in operation and whether the rights guaranteed by article 14 were being respected, particularly as far as trials in absentia were concerned.

Paragraph 15: Status of the Covenant

54. Mrs. MEDINA QUIROGA said that paragraph 15 (b) relating to articles 26 and 27 had no bearing on the status of the Covenant and should therefore form a separate paragraph.

55. Mr. ZAKHIA said that the question on Arabization that was asked in paragraph 15 (b) had to be put differently because it would be easy for the Algerian authorities to claim that the obligation to use Arabic rather than French was not incompatible with the Covenant. The Committee therefore had to request further information on the use of languages other than Arabic, such as Amazigh, the Berber language. The fact that classical Arabic was not the language spoken by the population as a whole was true of all Arabic-speaking countries.

56. Mr. KLEIN said that the question on the Berber language should be strengthened because, in its report, Algeria denied that there were any minorities in its territory. He therefore requested that a specific question should be included, to read: "Please give further information on the existence and treatment of minorities, especially under the law making Arabic the only official language and not recognizing Amazigh (the Berber language)".

57. The CHAIRPERSON said that the status of the Covenant would be dealt with in a specific question and that the rights of minorities would be dealt with in another totally separate paragraph.

Paragraphs 16, 17 and 18

58. The CHAIRPERSON said that the articles of the Covenant corresponding to those three paragraphs would be added.

Paragraph 19: Reservations

59. Mr. POCAR drew attention to the fact that the Algerian Government had not formulated a reservation to article 23 and that the Committee could therefore not ask it whether it had the intention of withdrawing "its reservations on certain articles of the Covenant, particularly article 23".

60. The CHAIRPERSON said that that mistake would be corrected and that the Committee could consider that the list of issues to be taken up in connection with the second periodic report of Algeria would be amended on the basis of all the proposals made during the meeting.

The meeting was suspended at 5.05 p.m. and resumed at 5.15 p.m.

61. The CHAIRPERSON invited the Committee to consider the draft list of issues to be taken up in connection with the consideration of the initial report of the former Yugoslav Republic of Macedonia (CCPR/C/63/Q/YRM/1), which had been distributed in English only.

62. Mrs. MEDINA QUIROGA said it had been decided at an earlier meeting that violations of fundamental rights committed against women should not be dealt with only in connection with article 3, which related to equality between men and women, and that the question of discrimination against women should be discussed in connection with each issue considered. In the case of the list of issues relating to the former Yugoslav Republic of Macedonia, the question of discrimination against women must be asked explicitly in connection with the implementation of article 25 of the Covenant.

63. After a discussion in which Mr. BHAGWATI, Mr. KLEIN, Mr. YALDEN, Mr. KRETZMER and Mr. ANDO took part, the CHAIRPERSON said that the questions would be arranged in logical order, that the titles would be corrected on the basis of the articles of the Covenant and that a specific paragraph would refer to article 14, which had been left out of the existing list. On that understanding, she would take it that the list was adopted.

64. It was so decided.

The meeting rose at 5.35 p.m.